**HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 1547 OF 2005.**

Mr.Rahul Pravin Beri. ...Applicant.

V/s.

State of Maharashtra. ...Respondent

Mr.K.T.Thomas, advocate for applicant.

Mr. A.S.Gadkari, APP for State.

**CORAM: A.M.KHANWILKAR,J**
**DATE : MARCH 31, 2005**

**P.C. :-**

1. Heard counsel for the parties.

2. This is the third bail application preferred by the present applicant. On two occasions this court has considered on merits and rejected the prayer for bail made by the applicant herein.

3. The counsel for the applicant however, submits that the applicant is entitled to be released on bail because the trial has not progressed even an inch in spite of the direction given by this court on the earlier occasion to dispose of in time bound manner. It is submitted, that it is a good reason to release

the applicant on bail. To support this submission, reliance is placed on the decisions of the Apex Court reported in **SCAcqCrj - 86(2001) in case of Mehmood Mohammed Sayed V/s State of Maharashtra.** Reliance is also placed on another decision in the case of **Ashok Dhingra V/s. N.C.T. of Delhi reported in 2000 Cri. L.J.4054**. In both these decisions, the Apex Court released the accused on bail solely because the trial was not likely to conclude in the near future and the accused were already in custody for some time. Relying on these decisions, it is contended that even in the present case, the applicant is in custody since 14/4/2003 and as the trial has not progressed even an inch, applying the principle stated by the Apex Court, the applicant deserves to be enlarged on bail.

4. However, in the present case, the record indicates that the trial has not commenced because of the successive applications filed by the applicant before the trial court for one relief or the other including of dropping of charges and deleting certain charges. If it is so, the Applicant is responsible for the situation. The applicant cannot be allowed to take advantage of that so as to ask for bail. To overcome this position, the learned counsel for the applicant placed reliance on the decision of the Apex Court

reported in **(2002) 4 Supreme Court Cases 578 in case of P.Ramachandra Rao V/s. State of Karnataka** to contend that it is a right of the applicant to get speedy trial; and moreover, on account of the fact that the applicant is in custody for a long time, he is not in a position to effectively defend himself in the pending trial. There is no substance in this submission. The applicant is represented by able advocate before the trial court. The trial could not commence because of the applications filed by the applicant before the trial court. In this situation, the only course open for this court is to reject the present bail application, which is third in point of time.

5. Hence dismissed.

6. Even while dismissing this application, the Court directs the trial Judge(Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai.) to finally dispose of the trial not later than four months from today. This direction is issued on the assurance given by the learned APP on instructions of the concerned officer who is present in court that the prosecution will be able to conclude the trial within 3 months from the date of its commencement. Order accordingly.